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June 18, 2008

AGENDA ITEM 3b

TO: MEMBERS OF THE HEALTH BENEFITS COMMITTEE

I. SUBJECT: Assembly Bill 2967 (Lieber) -- As Amended
April 15, 2008

Health Care Cost and Quality Transparency

*Sponsor: Service Employees International Union
(SEIU)*

II. PROGRAM: Legislation

III. RECOMMENDATION Support If Amended

The committee created by this bill would collect health care information and develop a health care cost and quality transparency plan that will result in the transparent public reporting of safety, quality, and cost efficiency information at all levels of the health care system.

Staff recommends the bill be amended to clarify CalPERS should not be considered a "data source."

V. ANALYSIS:

Summary

The bill would establish a sixteen-member Health Care Cost and Quality Transparency Committee (Committee) under the California Health and Human Services Agency (CHHS) to develop, implement, and a monitor health care cost and quality transparency plan (transparency plan). The Secretary of CHHS (Secretary) would be responsible for implementing the transparency plan. The Executive Officer of CalPERS or his or her designee would be an ex-officio, non-voting member of the Committee.

Background

Over the past several years, both the Legislature and the health care industry have sponsored demands for increased “transparency” of information about health care costs, utilization, and outcomes. With more and better data, purchasers and consumers can make better informed decisions, and the industry can more swiftly identify and ameliorate problems.

State Level Considerations

Governor Schwarzenegger, in his recent health care initiative, proposed expanding and strengthening the Office of Statewide Health Planning and Development’s (OSHPD) ability to collect, integrate and distribute data on health outcomes, costs, utilization and pricing for use by providers, purchasers, and consumers to inform and drive decision-making.

The California Health Policy and Data Advisory Commission (CHPDAC) advises OSHPD on health policy and health information issues. CHPDAC is a specially-funded Commission comprising 13 members, representing physicians, hospitals, long-term care facilities, business and labor coalitions, group prepayment health service plans, ambulatory surgery centers, and the general public. The Governor, Speaker of the Assembly and the Senate Rules Committee appoint the Commissioners.

The CHPDAC currently has three committees:

- The Technical Advisory Committee and Data Advisory Committee advises OSHPD on risk-adjusted outcomes studies of care in California hospitals.
- The Appeals Committee hears appeals by health facilities fined for late data reporting to the Office of Statewide Health Planning and Development.
- The Health Data and Public Information Committee reviews data collection issues relating to hospitals, long-term care facilities, clinics, home health agencies, and ambulatory surgery centers.

On March 6, 2007, the California Hospitals Assessment and Reporting Taskforce (CHART), a partnership between the California HealthCare Foundation and the University of California at San Francisco Institute for Health Policy Studies, launched its CalHospitalCompare.org web site. This Web site includes ratings for clinical care, patient safety, and patient experience for the 218 California hospitals that have chosen to participate in this voluntary project. The CHART project is part of a CalPERS strategic initiative, the Partnership for Change.

Federal Level Considerations

In 2006, President Bush signed an Executive Order titled, *Promoting Quality and Efficiency Health Care in Federal Government Administrated or Sponsored Health Care Programs*. The Order directed federal agencies that administer or support health insurance programs to take steps that will result in more complete and open information about the quality and price of health care.

In April 2005, the Centers for Medicare and Medicaid Services (CMS) launched "Hospital Compare," the first government-sponsored hospital quality score card.

Proposed Changes

Specifically, this bill would:

- Establish a 16-member committee to develop and recommend to the Secretary a transparency plan designed to provide public reporting of health care safety, quality, and cost information, and to monitor the implementation of the transparency plan.
- Require the transparency plan to provide for collection of data from health plans and insurers, medical groups, health facilities, licensed physicians, and other health care professionals; include a process for assessment of compliance with data collection requirements; and a recommended fee schedule to fund its implementation.
- Require the committee in developing the initial plan, to phase-in reporting in the following order: a) health care service plans, health insurers, and health facilities; b) medical groups; and, c) health professionals in independent practice.
- Require the Secretary to either accept and implement the plan, or refer it back to the committee for further modifications and to set provider fees to establish and support implementation of the transparency plan.

Legislative History

2008	SB 1300 (Corbett) - Would prohibit health care providers and health care plans or insurers from entering into a contract which limits or restricts the plan or insurer from disclosing information on the cost of procedures or health care quality information to its subscribers, enrollees, policyholders or insureds. [CalPERS Position: Pending]
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- 2007 AB X1 1 (Nunez) - Would have created a statewide health care system and included a provision to establish a Health Care Cost and Quality Transparency Committee similar to AB 2967. AB X1 1 died in committee. [CalPERS position: None]
- 2007 AB 8 (Nunez) - Would have created a statewide health care system and included a provision to establish a Health Care Cost and Quality Transparency Committee similar to AB 2967. AB 8 was vetoed. [CalPERS position: None]
- 2007 AB X1 2 (Nunez) – Would have created the Health Care Cost and Quality Transparency Committee of seven members to be appointed by the Governor, the Senate Committee on Rules, and the Speaker of the Assembly, as specified. This bill died in committee. [CalPERS' position: None]
- 2007 AB X1 12 (Runner) – Would have created the California Health Care Cost and Quality Transparency Committee in the California Health and Human Services Agency to develop a health care cost and quality transparency plan, which would include various strategies to improve medical data collection and reporting practices. Withdrawn from Committee. [CalPERS position: None]
- 2007 Chapter 698 (AB 1296,Torrico) – Requires CalPERS health plans to disclose to CalPERS the cost, utilization, actual claim payments, and contract allowance amounts for health care services rendered by participating hospitals to each member and annuitant that information is not available for public release or review. [CalPERS position: Sponsor]

Issues

1. Arguments by Those in Support

According to research by SEIU, California spends billions of dollars on care that lacks value. SEIU argues that consumers need data to fix this and it needs to be data that allows continuous improvement in quality and cost. According to SEIU, OSHPD's current activities in collecting data are hampered by outdated computer systems, data formats that are unintelligible to the general public, cost data that are unrelated to quality data, and a governance structure that assures that physicians and hospitals are able to delay reporting of data, making it less usable, less frequent, and less comprehensible.

Organizations in support: Service Employees International Union (sponsor), AARP, American Federation of Television & Radio Artists, California Conference Board of the Amalgamated Transit Union, California Conference of Machinists, California Labor Federation, California School Employees

Association, California Teamsters Public Affairs Council, CALPIRG, Congress of California Seniors, Consumers Union, Engineers and Scientists of California, Having Our Say Coalition, Health Access California, International Longshore & Warehouse Union, Pacific Business Group on Health, Professional & Technical Engineers, Local 21, Small Business California, Strategic Committee of Public Employees, UNITE HERE!, United Food and Commercial Workers Union, Western States Council

2. Arguments by Those in Opposition

The California Medical Association argues that this bill will create a new bureaucracy within state government and add new administrative burdens to provider practices, thereby increasing system costs and inefficiencies especially for small and solo providers.

The Howard Jarvis Taxpayers Association argues that this bill will make it tougher for private health care providers to continue to provide quality service and that the tax on hospitals to support this bill will lead to more hospital closures and more expensive care.

Organizations in opposition: California Medical Association, California Society of Anesthesiologists, Howard Jarvis Taxpayers Association

3. Implementation Relies on Funding From Data Sources and Users

This bill requires the Committee to recommend a fee schedule sufficient to fund the implementation of the transparency plan and other essential provisions of this legislation. The schedule of fees shall include a specific fee charged to each data source and data user. Currently, the bill defines "data source" as any physician, physician group, health facility, health care service plan, health insurer, any state agency providing or paying for health care or collecting health care data or information, or any other payer for health care services in California.

CalPERS could meet the definition of "data source" because it is a state agency that provides health care and collects health care and payment data from its health care plans. Consequently, CalPERS would have an unspecified liability based on the statutory authority to impose fees on "data sources" and "data users" to recover the costs of implementing this legislation. This may be an unintended consequence, so staff would recommend that the bill be amended to clarify that CalPERS should not be considered a "data source."

4. Creates Potential Duplication of Transparency Efforts

As noted above, there are already entities charged with similar tasks within the state government, which some might claim make this bill an exercise in governmental redundancy. The CHPDAC is fundamentally similar to the proposed Commission. However, CHPDAC is more driven by the industry, and does not enjoy much participation from labor, patient advocate and consumer groups. CHART and other organizations that provide existing quality and transparency Web sites should be recognized as interested stakeholders and represent their respective organizations on the proposed committees to provide insight and recommendations into the cost, quality, and transparency data currently available.

Supporters of this bill indicate that the existing data collection entities show a lack of progress due to several factors:

- Providers can and do refuse to voluntarily participate in reporting efforts
- Other statutes hinder voluntary data collection by private voluntary activities
- Many data collection initiatives are driven by providers' desires not by the needs of patients for better information

5. Legislative Policy Standards

The Board's Legislative Policy Standards do not specifically address the issues in this bill. The Board's 2007-08 Health Legislative Priorities, however, suggest a support position on proposals that will create greater transparency in, and disclosure of, the cost of health care goods and services. Therefore, staff recommends the Board adopt a Support If Amended position on AB 2967.

AB 2967 should be amended to clarify that CalPERS is not a "data source."

V. STRATEGIC PLAN:

This is not a product of the CalPERS strategic plan, but an ongoing responsibility of the CalPERS Office of Governmental Affairs.

VI. RESULTS/COSTS:

Program Costs:

This bill requires OSHPD to develop a provider fee schedule that would pay for the transparency plan. In addition, health care providers might experience increased administrative costs to meet the reporting requirements of this bill. If these costs are passed on to consumers, higher premiums could result.

However, the increased transparency that will result from access to the additional data may assist health plans and purchasers, including CalPERS, in identifying unjustified cost variations, which may help us to negotiate reduced premiums.

Administrative Costs:

This bill would require the Executive Officer or his or her designee to participate as an ex-officio, non-voting member of the Committee. This cost should be minor and absorbable.

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